

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2914 of 2007()

AGAINST THE ORDER DATED 07/08/2007 IN CMP. 3353 /2007 IN
MC.61/2007 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE
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PETITIONER: RESPONDENTS

1. K.P.BABU, S/O LATE GOPALAN,
AGED 36 YEARS, KAMMANA PURATH,
P.O.ELATHUR, CALICUT.
2. K.P.KARTHI, W/O LATE GOPALAN,
KAMMANA PURATH, P.O.ELATHUR, CALICUT.
3. K.P.SATHI, D/O LATE GOPALAN,
KAMMANA PURATH, P.O.ELATHUR, CALICUT.
4. K.P.SOBHA, D/O LATE GOPALAN,
KAMMANA PURATH, P.O.ELATHUR, CALICUT.
5. K.P.SULOCHANA, D/O LATE GOPALAN,
KAMMANA PURATH, P.O.ELATHUR, CALICUT.

BY ADV. SRI.VINOD SINGH CHERIYAN
SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS:

1. ANOOPA M.K., AGED 22 YEARS,
D/O LATE ASOKAN, SHANTHIRUTHI VAYAL,
P.O.MALIKADAVU, MUTHASSIKAVIL,
KARUVASSERY, KOZHIKODE.
2. STATE OF KERALA, REPRESENTED BY
GOVT. PLEADER.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 2914 of 2007

Dated this the 18th day of September, 2007

ORDER

Against the petitioners, the first respondent has initiated proceedings under the Domestic Violence Act. The proceedings are pending as M.C. 61 of 2007 before the J.F.C.M.-I, Kozikode. The petitioners have rushed to this Court with a prayer that the proceedings initiated under the Domestic Violence Act against them may be quashed.

2. What are the reasons? The learned counsel for the petitioners submits that some of the reliefs claimed have already been considered by the Family Court and decisions have been rendered. There is a further contention that, at any rate, as against petitioners 2 to 5 proceedings under the Domestic Violence Act will not lie, they being women. I am certainly of the opinion that these contentions must be raised before the learned Magistrate by the petitioners. The petition is, at any rate, maintainable in so far as the first petitioner is concerned he being the husband of the complainant. Admittedly the reliefs other than the reliefs covered by the decisions of the Family Court are claimed in the petition filed under the

Domestic Violence Act. In any view of the matter, it is necessary that the learned Magistrate (DVA Court) must consider all relevant contentions and pass appropriate orders. I am not persuaded to agree that the extra ordinary inherent jurisdiction available to this court under Section 482 Cr.P.C. can or ought to be invoked to prematurely terminate the proceedings in M.C. 61 of 2007 initiated by the first respondent.

3. This petition is accordingly dismissed. I may however hasten to observe that the petitioners shall be at liberty to raise all their contentions, including the contention regarding maintainability of the petition so far as some of the petitioners are concerned, before the learned Magistrate and the learned Magistrate must expeditiously proceed to pass final orders in the proceedings initiated under the Domestic Violence Act.

(R. BASANT)
Judge

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